

REMARKS/ARGUMENTS

Reconsideration of this application and entry of the foregoing amendments are respectfully requested.

Claims 21, 32, 41 and 55 have been amended to correct obvious clerical errors. Claim 42 has been amended so as to be placed in independent, and thus allowable, form.

The Examiner's allowance of claims 16-21, 23-29, 32, 33, 37-40, 64, 68, 69 and 71-78 is noted with appreciation.

Claims 41, 46, 49-58 and 63 stand rejected under USC102(e) as allegedly being anticipated by US6,015,555 (the '555 patent). Withdrawal of the rejection is in order for the reasons that follow.

The Examiner contends that the '555 patent teaches a chimeric antibody that has a human constant region at least 98.6% identical to the claimed effector domain in SEQ ID NO:2. In support of this position, the Examiner provides the following sequence alignment:

SEQ ID NO: 2	1 APPVAGPSVFLFPPPKPKDTLMISRTPEVTCVVVDVSHEDPEVQFNWYVGDGVEVHNAKTKP 60
Db	
Qy	1 APPVAGPSVFLFPPPKPKDTLMISRTPEVTCVVVDVSHEDPEVQFNWYVGDGVEVHNAKTKP 60
Db	
Qy	61 REEQFNSTFRVVSVLTVVHQDWLNGKEYKCKVSNKGLPSSIEKTISKTK 109
Db	:
Qy	61 REEQFNSTFRVVSVLTVVHQDWLNGKEYKCKVSNKGLPAPIEKTK 109
Db	

The Examiner further contends that the antibody of the '555 patent will inherently have the properties of the claimed antibodies because of their shared structure. Applicants respectfully submit that the rejection results from a simple misreading of the claims by the Examiner and offer the following clarifying comments.

It will be noted from a review of the language of, for example, claim 41 that the claimed effector domains are defined by several features in combination. Some, but not all, of these features are as follows:

- a) capable of specifically binding to Fc $\gamma$ RIIb...reduced affinity for Fc $\gamma$ RI, Fc $\gamma$ RIIa, and Fc $\gamma$ RIII and a reduced ability to mediate complement lysis (these are required activities),
- b) has the following blocks of amino acids at the stated positions: 233P, 234V, 235A, and no residue at 236, 327G, 330S and 331S,

and

- c) is at least 98% identical to G1 $\Delta$ ab (SEQ ID NO: 1) or G2 $\Delta$ a (SEQ ID NO: 2) as shown in Figure 17.

Careful consideration of the '555 patent will make clear that the requirement of feature (b) is not met. This can be seen from the Examiner's own alignment. Set out below is the numbering by Kabat (for comparison with the claim); the numbering using the Examiner's alignment (which is also SEQ ID NO:30 in the '555 patent); the amino acid found in the '555 patent; and that found in a sequence of the invention used in the alignment (G2 $\Delta$ a; SEQ ID NO:2):

<u>Kabat</u>	<u>Line-up</u>	<u>'555</u>	<u>G2<math>\Delta</math>a (SEQ ID NO:2)</u>
233	3	P	P
234	4	V	V
235	5	A	A
236	-	-	-
327	96	G	G
330	99	<b>A</b>	S
331	100	<b>P</b>	S

Thus, the antibody of the '555 patent does not have the following blocks of amino acids at the stated positions: 330S and 331S. Since this is a properly recited, obligatory feature of the claim,

the Examiner's assertion that the claim lacks novelty over the '555 patent is clearly not well founded.

For completeness, Applicants further note that, given the above, it cannot be inferred that the antibody of the '555 patent would have the same functional properties as the presently claimed molecules (also a feature of the claim). That is because the recited blocks of amino acids are – in the context of the domain - responsible for those activities, as has been explained extensively previously.

In view of the above, it will be clear that withdrawal of the rejection is in order and same is requested.

Claims 41, 47, 48, 57, 59-62 and 70 stand rejected under 35 USC 103 as allegedly being obvious over the '555 patent in view of Griffin et al. Withdrawal of the rejection is submitted to be in order for the reasons that follow.

The deficiencies of the primary reference are discussed in detail above. The teachings of Griffin et al to which the Examiner refers would in no way have cured those failings. Accordingly, reconsideration is requested.

Claims 48 and 65 stand rejected under 35 USC 103 as allegedly being obvious over the '555 patent in view of Griffin et al and further in view of USP 5,846,534.

As pointed out above, Griffin et al does not cure the failings of the '555 patent. Likewise, the teachings of USP 5,846,534, taken in combination with the '555 patent and Griffin et al, would not have brought one skilled in the art closer to the instant invention. Accordingly, reconsideration is requested.

This application is submitted to be in condition for allowance and a Notice to that effect is requested.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: /Mary J. Wilson/  
Mary J. Wilson  
Reg. No. 32,955

MJW:tat  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100